

Before the
FEDERAL COMMUNICATIONS COMMISSION DA 96-1681
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-209
)	
Morgan Media, Inc.)	
)	
Licensee of Station WAUB(AM))	
Auburn, New York)	
)	
Order to Show Cause Why the)	
License for Station WAUB(AM))	
Auburn, New York Should Not)	
be Revoked)	

**ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER**

Adopted: October 2, 1996

Released: October 11, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Morgan Media, Inc. ("Morgan") for Station WAUB(AM), Auburn, New York, and (b) the results of an investigation into WAUB(AM)'s silent status.¹

2. WAUB(AM) has been off the air since June 30, 1995, allegedly as a result of financial problems. On October 11, 1995, Morgan requested special temporary authority to remain silent, reporting that it was attempting to locate a buyer for the station. Special temporary authorization permitting the station to remain silent was granted February 9, 1996, after receipt of additional information that had been requested by the staff. This authority expired August 9, 1996.²

¹ The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

²WAUB(AM)'s license expires on June 1, 1998 (File No. BR-910131VV, granted May 30, 1991).

3. A review of our records reveals that no application for the assignment or transfer of the station's license has been filed. Further, Morgan has neither notified the Commission that broadcast operations have resumed nor requested further extension of its special temporary authority. The station has been off the air for over one year, and there has been no demonstration that the failure to resume broadcasting is for causes beyond the licensee's control or that broadcast operations can be resumed expeditiously. Therefore, Morgan is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

4. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Morgan Media, Inc. IS DIRECTED TO SHOW CAUSE why the license for Station WAUB(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether Morgan Media, Inc. has the capability and intent to expeditiously resume broadcast operations of WAUB(AM) consistent with the Commission's Rules.

(b) To determine whether Morgan Media, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

³ Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴ Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Morgan Media, Inc. is qualified to be and remain the licensee of Station WAUB(AM).

5. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

6. IT IS FURTHER ORDERED, That to inform Morgan Media, Inc., of the issues specified against it, a copy of this Order will be mailed by certified mail/return receipt requested to:

Morgan Media, Inc.
5 Silver Avenue
Auburn, New York 13021

7. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

⁵ The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596, n.3 (1989).